

2. RESPONSE

2.1 STATUS OF THE CLAIMS

Claims 1-17, 20-50 and 59-82 were pending at the time of the instant Action.

Claims 1, 2, 6, 9-17, 20-24, 26-50, 60-63, 67-69, 71, and 73-82 were allowed.

Claims 3-4, 7-8, 13, 25, 64-67, 70 and 72 are amended herein.

Claims 1-17, 20-50 and 59-82 remain pending in the case.

2.2 SUPPORT FOR THE CLAIMS

Support for each of the claims as amended herein is provided by the Specification, drawings, and original claims as filed. Applicants certify that no new matter has been introduced as a result of the accompanying amendment.

2.3 THE REJECTION OF CLAIMS 3-4, 7, 8, 25, 65 AND 72 UNDER 35 U. S. C. § 112, 2ND PARAGRAPH, HAS BEEN OVERCOME.

Claims 3-4, 7-8, 25 and 65 were rejected under 35 U. S. C. 112, 2nd paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are said to be indefinite for the recitation of the official IUPAC nomenclature for lipids.

Applicants respectfully traverse the alleged defects, and note again for the record that the claim terms objected to by the Office are not in fact, trademarks, but are standard chemical nomenclature used to identify well-known members of the chemical family of *N*-acylethanolamines. These abbreviations are sanctioned and approved by the IUPAC and as the

skilled artisan appreciates, these *N*-acylethanolamines (NAEs), are a class of lipid compounds with a fatty acid amide-linked to the nitrogen atom of ethanolamine. The numerical designations of NAEs define both the nature of the fatty acid (where the first number represents the number of carbon atoms in the *N*-acyl chain), and the number of double bonds present in the *N*-acyl chain (indicated by the second number in the formulae). For example, NAE12:0 refers to an *N*-acylethanolamine with a 12-carbon no-double-bond fatty acid that is amide-linked to ethanolamine. Likewise, NAE14:1, defines an *N*-acylethanolamine with a 14-carbon fatty acid having a single double bond, that is amide linked to ethanolamine.

These terms are readily discernable and understandable to a person skilled in the chemical arts, and particularly to one skilled in the biochemical arts involving *N*-acylethanolamines. Attached as Appendix A, is a copy of the official rules of nomenclature for lipids as taken from the current website of the IUPAC governing board. This body clearly indicates the preferred use of NAE numerical abbreviations to refer to lipids (see Appendix A in particular). Such nomenclature is a shorthand description of the more formal, and lengthy chemical notations used to identify these compounds, and while some lipid compounds have developed “common” or “trivial” names over the years (e.g., NAE12:0 and NAE14:0 are sometimes referred to as *N*-lauroylethanolamine, and *N*-myristoylethanolamine, respectively), these trivial names do not provide any greater clarity of identification of the compounds than use of their systematic notations, and are in fact LESS PREFERRED by the IUPAC governing body than the formal designations used throughout the specification.

Nevertheless, in the interest of providing as much clarity as possible, within reason, Applicants have amended several of the claims and part of the specification to include the “common” names for many of the claimed NAE’s. Applicants believe they have provided ample

evidence as to the definiteness of these terms, and their proper usage in accordance with accepted chemical practice, and incorporate these trivial names voluntarily as an effort to provide even more clarity as requested by the Office. As such, Applicants now respectfully request that this rejection be withdrawn, and that the claims proceed to allowance.

Claims 25 and 72 were rejected under 35 U. S. C. 112, 2nd paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are said to be indefinite for the recitation of trademarks..

Applicants again respectfully traverse and draw the Examiner's attention to the lengthy remarks and case law cited in Applicants response to the previous Action. The MPEP permits the use of such terms when it is not possible to refer to the products by specific chemical compositions. As the compositions referred to are proprietary, it is not possible for Applicants to specifically define the chemical compositions of each. However, Applicants have demonstrated that the claimed NAE compounds may be added to one or more of these commercially-available flower preservative compositions, and such addition increases the effectiveness of the commercial products in delaying the onset of senescence in flowers and cut plant parts which are contacted with these compositions.

In the interest of allowing the pending claims to advance to allowance without further delays in this regard, Applicants have nevertheless elected to amend the objected claims to remove the trademark terms. This clarity, solely for the purpose of complying with the Examiner's insistence that the claims contain no trademark terms, however, in now way represents Applicants' acquiescence that the invention does not encompass or contemplate the addition of one or more of the disclosed NAE compounds to a commercially-available

preparation for the purpose of improving the flower-preserving properties of such commercially-available compositions. In fact, Applicants specifically contemplate and consider that their invention will provide significant improvements to many of the commercially-existing compositions by increasing their effectiveness and promoting improved anti-senescence.

2.4 THE REJECTION OF CLAIMS 64-66 AND 70 UNDER 35 U. S. C. §102(B) HAS BEEN OVERCOME.

Claims 64-66 and 70 have been rejected under 35 U. S. C. §102(b), as allegedly being anticipated by Smrt et al.

Applicants respectfully traverse. Without acquiescing with the present rejection in any way, in the interest of cost-effectiveness, timeliness, and in an effort to maximize patent term., Applicants elect to prosecute to allowance composition claims commensurate in scope with that considered to be free of the art and patentable by the Examiner.

The rejected claims have been amended so that they do not read on a composition comprising palmitoylethanolamine (NAE 16:0), lecithin, and water.

The prior art of record does not teach or suggest the compositions of the pending claims and as such Applicants therefore request that the rejection be withdrawn, and that all pending claims be proceeded to allowance with all due care and expediency.

2.5 SUMMARY

In conclusion, in light of the foregoing remarks, Applicants believe that the concerns set forth in the Action have now been overcome and that all pending claims are in condition for immediate allowance. Such favorable action is respectfully requested. Should the Examiner

have any questions concerning the accompanying amendment, response and related papers, a telephone call to the undersigned Applicants' representative would be appreciated.

Respectfully submitted,

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